

Your Rights under the Family and Medical Leave Act of 1993

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Employees are eligible if they have worked for their employer for at least one year, and for 1,250 hours over

the previous 12 months, and if there are at least 50 employees within 75 miles. The FMLA permits employees to take leave on an intermittent basis or to work a reduced schedule under certain circumstances.

Reasons for Taking Leave:

Unpaid leave must be granted for *any* of the following reasons:

- to care for the employee's child after birth, or placement for adoption or foster care;
- to care for the employee's spouse, son or daughter, or parent who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

At the employee's or employer's option, certain kinds of *paid* leave may be substituted for unpaid leave.

Advance Notice and Medical Certification:

The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.

- The employee ordinarily must provide 30 days advance notice when the leave is "foreseeable."
- An employer may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work.

Job Benefits and Protection:

- For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan."

- Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
- The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Unlawful Acts by Employers:

FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA;
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement:

- The U.S. Department of Labor is authorized to investigate and resolve complaints of violations.
- An eligible employee may bring a civil action against an employer for violations.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

For Additional Information:

If you have access to the Internet visit our FMLA website: <http://www.dol.gov/esa/whd/fmla>. To locate your nearest Wage-Hour Office, telephone our Wage-Hour toll-free information and help line at 1-866-4USWAGE (1-866-487-9243): a customer service representative is available to assist you with referral information from 8am to 5pm **in your time zone**; or log onto our Home Page at <http://www.wagehour.dol.gov>.



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Employment Standards Administration
Wage and Hour Division
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CITY OF SAINT PAUL FAMILY AND MEDICAL LEAVE ACT POLICY

1. STATEMENT OF POLICY:

In accordance with the Federal Department of Labor's Family and Medical Leave Act (FMLA), the City of Saint Paul will grant job protected unpaid family and medical leave to eligible City employees for up to twelve (12) weeks per twelve(12) month period for any one or more of the following reasons:

- Birth, adoption or foster placement of a child;
- To care for an immediate family member (spouse, child or parent) of the employee if such immediate family member has a serious health condition; or
- For the employee's own serious health condition which makes the employee unable to perform the functions of the employee's job.

2. COVERAGE AND ELIGIBILITY:

To be eligible for family/medical leave, an employee must have worked for the City of Saint Paul for at least twelve (12) months, and must have worked at least 1250 hours over the previous twelve (12) month period.

3. INTERMITTEN OR REDUCED LEAVE:

If "medically necessary", due to the serious medical condition of the employee or that of the employee's spouse or child or parent, leave may be taken on an intermittent schedule. If leave is request on this basis, however, the employee may be required to transfer temporarily to an alternative position with equivalent pay and benefits which better accommodates recurring periods of absence or a part-time schedule.

"Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.

For part-time employees and those who work variable hours, the family and medical leave entitlement is calculated on a "pro-rata" basis. A weekly average of the hours worked over the twelve (12) weeks prior to the beginning of the leave should be used for calculating the employee's normal work week.

4. OTHER LEAVE MUST BE USED FIRST:

Employees will be required to first use their accrued paid vacation, compensatory time, and accrued sick leave (as appropriate), and then voluntary leave for which they are eligible before any unpaid portion of FMLA leave is granted for any reason. The FMLA does not broaden the instances for which accrued paid sick leave can be used.

For example, FMLA Leave to care for an employee's ill child would be an instance where the employee's accrued sick leave would first be used. However, FMLA leave to care for a spouse with a serious health condition would not, since sick leave cannot be used for care of an ill spouse, (Collective bargaining agreements differ on these points. However, if paid sick leave can be used, then its use will be required prior to the unpaid FMLA leave.)

When an employee has used accrued paid vacation time or accrued sick leave for a portion of family/medical leave, the employee may request an additional period of unpaid leave to be granted so that the total of paid and unpaid leave provided does not exceed twelve (12) weeks.

Any other type of leave, whether paid or unpaid, taken for a reason covered by the FMLA will, when used in conjunction with family/medical leave, be considered part of the twelve (12) weeks granted under the law.

5. JOB PROTECTION:

If the employee returns to work following the approved family/medical leave period, the employee will be reinstated to the employee's former position or an equivalent position with equivalent pay, benefits, status, and authority.

The employee's restoration rights are the same as they would have been had the employee not been on leave. Thus, if the employee's position would have been eliminated or the employee would have been terminated but for the leave, the employee would not have the right to be reinstated upon return from leave.

If the employee fails to return within twelve (12) weeks following a family/medical leave, the employee will be reinstated to the employee's same or similar position, only if available, in accordance with applicable laws. If the employee's same or similar position is not available, the employee may be terminated.

6. MEDICAL CERTIFICATION:

For leaves taken because of the employee's or a covered family member's serious health condition, the employee must complete the "Physician or Practitioner Certification" form and return it to Human Resources. Medical certification must be provided by the employee within fifteen (15) days after requested, or as soon as is reasonably possible.

The City of Saint Paul may require a second opinion (at the City's expense), periodic reports on the employee's status and intent to return to work, and a fitness-for-duty report to return to work.

All documentation related to the employee's or family member's condition will be held in strict confidence and maintained in the employee's medical records file.

7. BENEFITS COVERAGE:

An employee granted a leave under this policy will continue to be covered under the City's group health insurance plan, life insurance plan and long-term disability plan under the same conditions as coverage would have been provided if the employee had been continuously employed during the leave period.

Employee contributions will be required either through payroll deduction or by direct payment to the benefits administrator. The employee will be advised in writing at the beginning of the leave period as to the amount and method of payment. Employee contribution amounts are subject to any change in rates that occurs while the employee is on leave. If an employee's contribution is more than 30 days late, the employee's coverage will lapse.

An employee is not entitled to seniority or benefit accrual (such as vacation and sick leave) during periods of unpaid leave, but will not lose anything accrued prior to leave.

8. DEFINITIONS:

"Twelve (12) Month Period" means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.

"Spouse" – does not include unmarried domestic partners. If both spouses work for the City, their total leave in any 12-month period may be limited to an aggregate of 12 weeks under certain conditions.

"Child" – means a child either under 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's "child" is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster, or step-child.

"Serious Health Condition" means an illness, injury, impairment, or a physical or mental condition that involves:

- Inpatient care; or
- Any period of incapacity requiring absence from work for more than three calendar days and that involves continuing treatment by a health care provider; or
- Continuing treatment by a health care provider for a chronic or long-term health condition that is incurable or which, if left untreated, would likely result in a period of incapacity of more than three calendar days; or
- Prenatal care by a health care provider.

“Continuing Treatment” – means:

- Two or more visits to a health care provider; or
- Two or more treatments by a health care practitioner on referral from, or under the direction of, a health care provider; or
- A single visit to a health care provider that results in a regimen of continuing supervision of, but not necessarily being actively treated by, a health care provider.

9. NOTICE REQUIREMENT:

An employee is required to give at least a thirty (30) day notice in the event of a foreseeable leave. A “Request for Family/Medical Leave” form should be completed by the employee and returned to the Office of Human Resources. In unexpected or unforeseeable situations, an employee should provide as much notice as is practicable.

If an employee fails to give thirty (30) days notice for a foreseeable leave with no reasonable excuse for the delay, the leave will be denied until thirty (30) days after the employee provides notice.

To apply, or to request further information, please contact the:

Office of Risk Management
400 City Hall Annex, 25 West Fourth Street
Saint Paul, MN 55102-1634
or call (651) 266-6500

Download the following forms:

[Family Medical Leave Forms – Employee \(Word\)](#)

[Family Medical Leave Forms – Employee \(PDF\)](#)

[Family Medical Leave Forms – Family Member \(Word\)](#)

[Family Medical Leave Forms – Family Member \(PDF\)](#)